

**Remark**

Applicants respectfully request reconsideration of this application. Claims 1-40 are presented for examination.

**35 U.S.C. §102 Rejection,*****Wallace et al.***

The Examiner has reiterated the claim rejection based on Wallace et al., U.S. Publication No. 2002/0193146 ("Wallace"). Applicants respectfully submit that this rejection was completely and convincingly answered in the previous action.

In the Response to Arguments, the Examiner makes reference to a few sections of Wallace. The Examiner cites para. 0059 against the "comparing" element of Claim 1. However, para. 0059 describes only conventional RAKE receiver operation in combining or selecting the best of multiple copies of a received signal. In Claim 1, the "comparing" element is used in the "determining" element. This is not suggested anywhere in para. 0059.

The Examiner also cites the discussion of decision diamonds. While the Examiner does not refer to a particular paragraph, the decision diamonds are shown only in Figures 13 and 14. In both figures, a transmission mode or reception mode is selected only on the basis of the number of antennas that the base station and mobile station have. In Claim 1, the "determining" element is "based on" the "comparing" element. The comparing cited by the Examiner is used for receiving the transmitted signal and the determining is done based on the number of antennas.

The Examiner quotes a section of para. 0074 related to selecting a best signal. However, para. 0074 is describing how receive diversity might work. The best signal is used only to accurately receive the signal. This comparison is not used in any "determining" element like that of Claim 1.

The last portion quoted by the Examiner is at paras. 0105 and 0106. This portion of the reference was discussed thoroughly in the previous action. As stated in the last action, "Wallace shows a CDMA system that can apply "pure diversity" or "spatial multiplexing" based on link quality (para. 106, 121). The link quality is reported to a transmitting base station by a receiving mobile station (para. 97, 105, 139). The link quality report is also used to adjust encoding and modulation (para. 97, 105)." A link quality report is not the same as "determining whether reception of radio signals transmitted to the remote terminal is likely to be improved by diversity transmission based on the comparisons," as recited in Claim 1.

### Conclusion

Wallace suggests that a RAKE receiver may use receive diversity to combine or select from multiple signals. Wallace also suggests that two different transmit diversity modes may be selected based on a link quality report from a mobile station. There is nothing in Wallace to suggest that a comparison of multiple received signals be used to select a transmit diversity mode. Applicants respectfully submit that the Examiner has failed to make a prima facie showing of anticipation or obviousness using Wallace as a reference.


**Invitation for a Telephone Interview**

Applicants seek a telephone interview with the Examiner. The undersigned will call the Examiner to discuss any remaining issues to moving the application forward to allowance.

Respectfully submitted,

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